

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
EVANSVILLE DIVISION

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
v.)	No. 3:11-cr-00012-RLY-CMM
)	
OSCAR RODRIGUEZ-RAMIREZ,)	-02
)	
Defendant.)	

Order Denying Motion for Compassionate Release Without Prejudice

Defendant filed a pro se motion that the Court construed as a Motion for Compassionate Release pursuant to Section 603 of the First Step Act of 2018. Dkt. 471. Requests for compassionate release are governed by 18 U.S.C. § 3582(c)(1)(A)(i). That section prevents a court from modifying a sentence until "after the defendant has fully exhausted all administrative rights to appeal a failure of the Bureau of Prisons to bring a motion on the defendant's behalf or the lapse of 30 days from the receipt of such a request by the warden of the defendant's facility, whichever is earlier." The Court has held that the exhaustion requirement is not jurisdictional. *See United States v. Cox*, No. 4:18-cr-17-TWP-VTW-1, 2020 WL 1923220, at *3 (S.D. Ind. Apr. 21, 2020).

Because Defendant's motion did not provide sufficient information to determine whether he had exhausted his administrative remedies, on June 17, 2020, the Court directed Defendant to file a notice addressing his attempts, if any, at exhaustion. Dkt. 472. The time for Defendant to provide additional information regarding his exhaustion efforts has passed, and he has not yet provided the requested information.

Defendant failed to provide sufficient information from which the Court can conclude that he has exhausted his administrative remedies. And, when given the opportunity to provide information, he failed to do so. Moreover, the face of Defendant's motion does not show that he

is entitled to compassionate release under § 3582(c)(1)(A). Accordingly, his motion, dkt. [471], is **denied without prejudice**.¹ Nothing in this Order, however, prohibits Defendant from filing a new motion for compassionate release.

The **clerk is directed** to include this Court's form motion for compassionate release along with Defendant's copy of this Order.

IT IS SO ORDERED.

Date: 8/10/2020



RICHARD L. YOUNG, JUDGE
United States District Court
Southern District of Indiana

Distribution:

Oscar Rodriguez-Ramirez
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Terre Haute, IN 47808

All Electronically Registered Counsel

¹ In the motion, Defendant asked the Court to appoint counsel. The Court concludes that the interests of justice do not support appointing counsel at this time. If Defendant files a renewed motion, the Court will again evaluate whether to appoint counsel to represent him.